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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/701,953 | 11/05/2003 | Sandor Gyure | 102-522 CON 2 | 8128 |

32752 7590 02/09/2006

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EXAMINER

MELENDEZ, MANUEL A

ART UNIT PAPER NUMBER

3763

DATE MAILED: 02/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/701,953 | GYURE ET AL. | |
| | Examiner | Art Unit | |
| | Manuel Mendez | 3763 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/23/2005 RCE.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 30-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

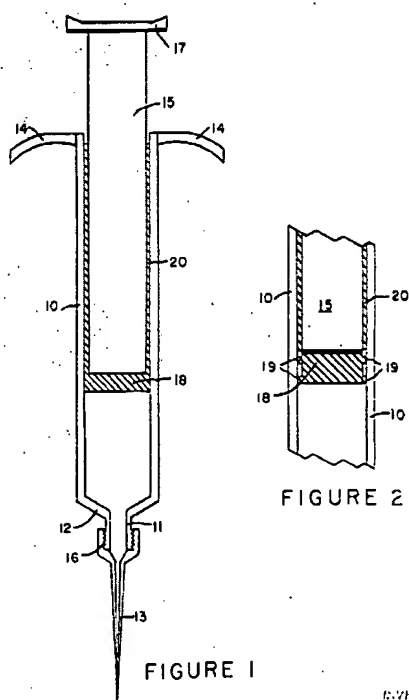
DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 30-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Pirtle, Jr., in view of Funderburk, Richard, et al., Akhavi, Tischinger, or Dragosits, et al.**



The Pirtle, Jr., patent discloses a tubular barrel having a first opening and a second opening at opposite ends with a wall extending between the ends, the wall

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having an inner surface, a stopper slidably received in the tubular barrel and having a portion in slidable engagement with the inner surface of the tubular barrel, and a lubricant disposed over a limited area of at least one portion of the inner surface of the tubular barrel, the inner surface portion having an axial length greater than an axial length of the stopper. Please note above that the length of coating (20) is greater than the length of stopper (18). The Pirtle, Jr., patent does not expressly disclose the use of (1) plastic syringes, (2) glass syringes, and (3) the use of silicone to provide a coating to the inner wall of the syringe. However, the above-disclosed enhancements are conventional as evidenced by the teachings of Richard, et al., Akhavi, Tischinger, and Dragosits, et al.

The Richard, et al., patent demonstrates that the use of glass to manufacture syringes is conventional in the art. Additionally, the Akhavi patent teaches that plastic syringes are also conventional in the art. Finally, the Tischinger patent demonstrates that it is well known in the art to use silicone as a lubricant in syringes.

Based on the teachings of the above-cited references, modifying the syringe disclosed by Pirtle, Jr., with (1) plastic syringes, (2) glass syringes, (3) and/or the use of silicone to provide a coating, would have been considered obvious in view of the proven conventionality and the respective benefits of these enhancements.

The examiner of record wants to point out, that Funderburk teaches a system for lubricating a syringe barrel. Funderburk, however, does not teach that the lubrication should be limited to selected portions of the syringe. Importantly, Pirtle, Jr., demonstrates that it is conventional to lubricate only a portion of the syringe barrel.

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Moreover, in figure 2, as the plunger moves up and down, it is apparently clear that sealing rings (19) would be lubricated to reduce friction and enhance the movement of the plunger. Based on the above observations, a person of ordinary skill in the art would have considered the step of coating the sealing rings of the stopper an obvious design alternative.

Finally, in response to applicants' comments alleging that Pirtle, Jr., teaches away from applicant's invention, Dragosits, et al., demonstrates the conventionality of reducing friction in a syringe by applying a lubricant to the piston and/or the inner portion [referring to the inner wall of the syringe]. The specification of this patent expressly states, in column 8, lines 32-35, "[a] lubricant, such as known medical grade silicone lubricants may be applied to the piston and/or the inner portion for reducing the force required to move the piston along the body portion".

Accordingly, for a person of ordinary skill in the art, modifying the syringe disclosed by Pirtle, Jr., with a plunger/stopper system that does not make contact with the inner wall [lubricant not being deposited on the plunger] as disclosed by Dragosits, et al., would have been considered obvious in view of the proven conventionality and respective benefits of this embodiment.

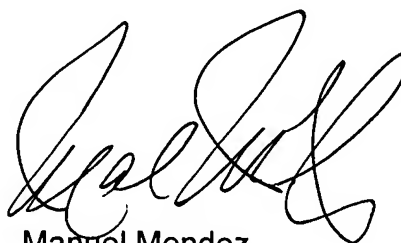
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Manuel Mendez whose telephone number is 571-272-4962. The examiner can normally be reached on 0730-1800 hrs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Nick Lucchesi can be reached on 703-308-3552. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Manuel Mendez', with a stylized, cursive script.

Manuel Mendez
Primary Examiner
Art Unit 3763

MM